

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

|                          |                   |
|--------------------------|-------------------|
| DELIA MCCOY-MCMAHON,     | )                 |
|                          | ) Civil Action    |
| Plaintiff                | ) No. 08-cv-05989 |
|                          | )                 |
| vs.                      | )                 |
|                          | )                 |
| J. CARLTON GODLOVE, II,  | )                 |
| BRIAN R. KELLY,          | )                 |
| PATRICK M. MCCOY,        | )                 |
| LEWIS J. MCCOY, JR. and  | )                 |
| SPOTTS, STEVENS & MCCOY, | )                 |
|                          | )                 |
| Defendants               | )                 |

O R D E R

Now, this 30<sup>th</sup> Day of September, 2011, upon  
consideration of the following documents:

- (1) Defendants' Motion to Dismiss Complaint Pursuant to F.R.Civ.P. 12(b)(6), which motion was filed on January 5, 2009;
- (2) Defendants' Memorandum of Law in Support of Their Motion to Dismiss Complaint, which brief was filed on January 5, 2009;
- (3) Plaintiff's Opposition to Defendants' Motion to Dismiss Complaint Pursuant to F.R.Civ.P. 12(b)(6) and Memorandum of Law in Support Thereof, which opposition brief was filed on January 26, 2009; and
- (4) Defendants' Reply Brief in Further Support of its Motion to Dismiss, which reply brief was filed on March 17, 2009;<sup>1</sup>

and for the reasons expressed in the accompanying Opinion,

---

<sup>1</sup> Defendants' motion to dismiss, brief and reply brief, and plaintiff's opposition brief were each dismissed without prejudice to reinstate by my Order dated and filed September 29, 2009. Each document was reinstated on November 10, 2010.

IT IS ORDERED that Defendants' Motion to Dismiss Complaint Pursuant to F.R.Civ.P. 12(b)(6) is granted in part and dismissed in part.

IT IS FURTHER ORDERED that the motion is granted to the extent it seeks dismissal of Count XIV of plaintiff's Complaint alleging violations of the Racketeer Influenced and Corrupt Organizations Act ("RICO").

IT IS FURTHER ORDERED that the remainder of plaintiff's Complaint is dismissed for lack of subject matter jurisdiction, without prejudice to reinstate the issues contained in the motion to dismiss regarding plaintiff's pendant state-law claims as preliminary objections in the Court of Common Pleas of Berks County, Pennsylvania.

IT IS FURTHER ORDERED that the defendants' motion to dismiss is dismissed as moot to the extent it seeks dismissal of Counts I through XIII of plaintiff's Complaint.

IT IS FURTHER ORDERED that this matter is remanded to the Court of Common Pleas of Berks County, Pennsylvania for disposition of the remainder of plaintiff's claims.

IT IS FURTHER ORDERED that the Clerk of Court shall mark this case closed for statistical purposes.

BY THE COURT:

/s/ James Knoll Gardner  
James Knoll Gardner  
United States District Judge